

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 03-0447P**

Withholding and Sales Taxes  
For the Month of April 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayer protests the penalties assessed for failure to file its withholding tax and sales tax returns in a timely manner.

**II. Tax Administration – Interest**

**Authority:** IC 6-8.1-10-1

The taxpayer protests the assessment of interest.

**STATEMENT OF FACTS**

The taxpayer filed its withholding tax and sales tax returns after their respective due dates for the month of April 2003. Accordingly, the Department assessed a penalty and interest on each of these returns for the taxpayer's failure to timely remit these Indiana trust taxes. In its letter of protest, the taxpayer requested that the penalties and interest be abated due to reasonable cause.

**I. Tax Administration – Penalty**

The taxpayer protests the imposition of penalty because changes in its computer system made it difficult to issue checks and also hindered the taxpayer from keeping track of due dates. The taxpayer asserts that its payment history prior to April 2003 shows that trust taxes were remitted in a timely manner.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

“Negligence” on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The Department acknowledges that problems can occur whenever data processing systems are updated. However, the possibility of such problems should have been anticipated by the taxpayer; procedures should have been in place to assure that tax obligations were timely paid.

The taxpayer has not established that its failure to timely pay the full amount of tax due was due to reasonable cause and not due to negligence.

### **FINDING**

The taxpayer's protest is denied.

## **II. Tax Administration – Interest**

The Department does not have the authority to waive interest.

### **FINDING**

The taxpayer's protest is denied.